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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,837	11/03/2003	Elliot Yasnovsky	12729-38	5781
56020 7590 10/03/2007 BRINKS HOFER GILSON & LIONE / YAHOO! OVERTURE P.O. BOX 10395 CHICAGO, IL 60610			EXAMINER BOVEJA, NAMRATA	
			ART UNIT 3622	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/700,837

Applicant(s)

YASNOVSKY ET AL.

Examiner

Namrata Boveja

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-94 is/are pending in the application.
- 4a) Of the above claim(s) 1-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 49-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/17/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to communication filed on 07/17/2007.
2. Claims 1-48 have been cancelled and claims 49-94 are presented for examination.
3. Amendments to claims 49, 52, 53, 57, 65, 67, 74, 75, 81, 89, and 92 have been entered and considered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 49-50, 54-59, 61, 64, 66-72, 77-83, 85, 88, and 90-93, are rejected under 103(a) as being unpatentable over Mason et al. (Patent Number 6,401,075 hereinafter Mason) in view of Davis et al. (Patent Number 6,269,361 hereinafter Davis).

In reference to claims 49, 67, and 92, Mason teaches a method, computer, and a computer program for establishing an advertisement campaign comprising: (A) receiving over a computer network a request to initiate an advertisement campaign, the request comprising: a maximum amount to spend on the advertisement campaign (i.e. user can be billed for a number of click-throughs from other sites, length of time the advertisement is displayed, or the number of hits received by the advertisement) (col. 5 lines 4-32 and col. 6 lines 7-16), the advertisement campaign including a plurality of

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advertisements (col. 3 lines 24-40 and col. 4 lines 54-57), a *selection* of an advertisement from the plurality of advertisements to be used in the advertisement campaign (i.e. the identity of the advertisement) (col. 3 lines 24-65 and col. 4 lines 54-57), and a time period according to which according to which the advertisement is to be run (col. 5 lines 4-15); (B) changing the status of the advertisement campaign (i.e. deciding if an advertisement should be replaced by another or no longer be displayed) (col. 6 lines 45-59) and modifying the which of the plurality of advertisements is the *selected* advertisement (i.e. modifying which advertisement is displayed to the user based on various criteria) (col. 4 lines 54-67 and col. 6 lines 27-59); (C) reviewing the *selected* advertisement to determine if the advertisement is approved or not approved (col. 3 lines 35-42 and col. 5 lines 53-61), and when the advertisement is deemed not approved, the advertisement is rejected (i.e. a new advertisement is created) (col. 5 lines 53-61), and when the advertisement is deemed approved, the advertisement is accepted (col. 5 lines 53-61); and (D) displaying the advertisement on an electronic display coupled with the computer network (col. 3 lines 57-65), according to the time period when the advertisement campaign is accepted (i.e. show the advertisement during a certain time period) (col. 5 lines 4-15), and accounting for the displaying based on the maximum amount to spend (i.e. after the number of paid click-throughs are used up) (col. 5 lines 4-32).

Mason does not specifically teach providing an interface configured to allow for adjusting the maximum amount to spend *during the advertisement campaign*. Davis teaches providing an interface configured to allow for adjusting the maximum amount to

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spend *during the advertisement campaign* (col. 18 lines 37 to col. 19 lines 58 and Figures 8 and 9). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Mason to include providing an interface configured to allow for adjusting the maximum amount to spend *during the campaign* to allow users to determine where and how to allocate their advertising funds *on a real time basis*.

Mason also does not specifically teach what is spent for each display of the advertisement to be added until the maximum amount to spend is met, at which time the displaying is terminated unless the maximum amount to spend is increased. Davis teaches what is spent for each display of the advertisement is added until the maximum amount to spend is met (i.e. user is invoiced for each time a search is executed by a user on the corresponding search term), at which time the displaying is terminated unless the maximum amount to spend is increased (i.e. unless user's account is replenished, it is suspended and the listings will no longer appear in search results list) (col. 13 lines 4-10 and col. 14 lines 5-11). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Mason to include what is spent for each display of the advertisement to be added until the maximum amount to spend is met, at which time the displaying is terminated unless the maximum amount to spend is increased in order to bill advertisers on a cumulative basis and to ensure that advertisers who have not paid do not continue to receive the benefit of having their advertisements displayed to users unless they make the appropriate payment.

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5. In reference to claims 50 and 93, Mason teaches the method wherein said displaying comprises posting said advertisement to a predetermined URL or a URL specified by said request during said time period (col. 5 lines 4-32).

6. In reference to claims 54 and 77, Mason teaches the method wherein the receiving further comprises: providing over a computer network a plurality of time periods that are available for the advertisement; and accepting over a computer network a selection of a time period in the plurality of time periods to run the advertisement (col. 5 lines 4-32 and Figure 1).

7. In reference to claims 55, 78, and 79, Mason teaches the method wherein the advertisement campaign comprises a plurality of advertisements, the method further comprising: providing over a computer network an image of at least one advertisement from the plurality of advertisements in the advertisement campaign (col. 3 lines 24-56, col. 4 lines 7 to col. 5 lines 3, col. 5 lines 47-53), receiving over a the computer network instructions to edit the plurality of advertisements (col. 5 lines 42 to col. 6 lines 65), and wherein the image of each advertisement in the plurality of advertisements in the advertisement campaign is displayed on a remote computer (col. 4 lines 5-19).

8. In reference to claims 56 and 80, Mason teaches the method wherein the instructions to edit the plurality of advertisements comprise modifying: which advertisements are part of the plurality of advertisements (col. 6 lines 27-65), a web page that an advertisement in the plurality of advertisements is posted to when the advertisement is run (col. 5 lines 4-32); or a time period in which an advertisement in the plurality of advertisements is run on a web site (col. 5 lines 6-12).

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9. In reference to claims 57 and 81, Mason teaches the method further comprising: displaying on the electronic display over the computer network a summary of a plurality of advertising campaigns, each respective advertisement campaign in the plurality of advertising campaigns defining: a maximum amount to spend on the respective advertisement campaign (i.e. user can be billed for a number of click-throughs from other sites, length of time the advertisement is displayed, or the number of hits received by the advertisement) (col. 5 lines 4-32 and lines 33-46 and col. 6 lines 7-16), a *selection* of one or more advertisements to be used in the respective advertisement campaign (col. 5 lines 33-61), and a time period in which an advertisement in the respective advertisement campaign is to be run (col. 5 lines 4-12 and lines 33-46 and col. 6 lines 7-16).

10. In reference to claims 58 and 82, Mason teaches the method wherein a first advertising campaign in the plurality of advertising campaigns has a status and the step of displaying on the electronic display a summary of the plurality of advertising campaigns comprises displaying the status of the first advertising campaign (col. 6 lines 27-65), and wherein the method further comprises receiving over the computer network instructions to change the status of the first advertising campaign from a first state to a second state (i.e. replacing one unsuccessful advertisement with a more successful one based on the click-through rate) (col. 6 lines 27-65).

11. In reference to claims 59 and 83, Mason teaches the method wherein the first state and the second state are each independently an active state, a suspended state, or a cancelled state, wherein when said state of said first advertising campaign is the

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active state, the one or more advertisements specified by the first advertisement campaign are run on a predetermined web site or on a web site specified by the advertising campaign (col. 6 lines 27-65) when said state of said first advertising campaign is the suspended state, the one or more advertisements specified by the first advertisement campaign are not run on a predetermined web site or on a web site specified by the advertising campaign (i.e. an advertisement that's not working well is not shown and are substituted) (col. 3 lines 54-67 and col. 6 lines 27-65), and when said state of said first advertising campaign is the cancelled state, the first advertisement campaign is removed from the plurality of advertising campaigns (i.e. an unapproved advertisement is removed) (col. 5 lines 47-61).

12. In reference to claims 61 and 85, Mason teaches the method wherein the advertisement is displayed on a predetermined web site or on a web site specified by the request as a function of the relevancy of the advertisement (i.e. how relevant the advertisement is to the content of the web site itself) (col. 2 lines 30-38).

13. In reference to claims 64 and 88, Mason teaches the method wherein the relevancy of the advertisement is measured at least in part by a contextual relevancy of the advertisement to other content on a predetermined web site or a web site specified by the request (col. 2 lines 30-38).

14. In reference to claims 66 and 90, Mason teaches the method wherein said advertisement is at least one of (i) text only, (ii) text and a URL link, (iii) an icon and a URL link (col. 3 lines 43-65), (iv) a banner ad (col. 3 lines 43-55), (v) a graphic (i.e. an image) (col. 5 lines 57-61), (vi) a video, or combinations thereof.

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15. In reference to claim 68, Mason teaches the computer further comprising: a self-serve billing module coupled to the self-serve user interface for billing the originator of the request when the advertisement is displayed on the predetermined web site or on the web site specified by said request order (col. 5 lines 4-46 and Figure 1), wherein the accounting of the displaying is based on the billing of the originator (i.e. you are billed/invoiced for 15,000 click throughs) (col. 5 lines 4-46 and Figure 1).

16. In reference to claim 69, Mason teaches the computer further comprising: a back-end system coupled to the self-serve billing module, the back-end system comprising: a contract management system for managing information about the request (i.e. a statistical analysis package) (col. 6 lines 27 to col. 7 lines 13), and an advertisement server coupled to the contract management system for serving advertisements to the predetermined web site on the web site specified by the request (i.e. a GNI server) (col. 5 lines 47 to col. 6 lines 6).

17. In reference to claim 70, Mason teaches aggregating data about advertisement serves and providing updates of such data to the contract management system (i.e. a statistical analysis package) (col. 6 lines 27-col. 7 lines 13).

18. In reference to claim 71, Mason teaches the computer wherein said instructions for displaying comprise displaying said advertisement on a predetermined web site or on a web site specified by said request during said time period (col. 3 lines 24-65).

19. In reference to claim 72, Mason teaches the computer wherein said predetermined web site or said web site specified by said request on which said

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advertisement is displayed is served to a remote computer that displays said web site in an Internet browser running on said remote computer (col. 4 lines 5-19).

20. In reference to claim 91, Mason teaches the computer wherein said instructions for displaying said advertisement, when the advertisement campaign is accepted, during said time period comprise: instructions for incorporating said advertisement into a web page (col. 6 lines 7-26); and instructions for serving said web page at a predetermined URL or at a URL specified by said request (col. 5 lines 33 to col. 6 lines 65).

21. Claims 52, 53, and 74-76 are rejected under U.S.C. 103(a) as being unpatentable over Mason in view Sparks (Patent Number 6,167,382 hereinafter Sparks).

In reference to claims 52 and 74, Mason does not teach providing advertising templates, obtaining a selection of templates, obtaining information to be inserted into the template, and creating the advertisement *selected* by the request based on the template advertisement and the information to be inserted into the template advertisement. Sparks teaches providing advertising templates, obtaining a selection of templates, obtaining information to be inserted into the template, and creating the advertisement designated by the request based on the template advertisement and the information to be inserted into the template advertisement (abstract, col. 2 lines 59-col. 3 lines 19). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Mason to include providing templates to the users

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for creating advertisements to save time for users by pre-developing advertisement frameworks for them to use in their advertising campaigns.

22. In reference to claim 53, Mason teaches the method further comprising: providing over the computer network in an electric display including a remote computer, a preview of the advertisement *selected* by the request (col. 3 lines 35-42).

23. In reference to claims 75, and 76, Mason teaches the method further comprising: providing over the computer network in an electric display including a remote computer, a preview of the advertisement *selected* by the request (col. 3 lines 35-42).

24. Claims 51, 60, 62-63, 65, 73, 84, 86-87, 89, and 94 are rejected under U.S.C. 103(a) as being unpatentable over Mason in view of Official Notice.

In reference to claims 51, 73, and 94, Mason does not teach displaying said advertisements on a predetermined wireless device or on a wireless device specified by said request during said time period. Official Notice is taken that it is old and well known to display advertisements on wireless devices to take advantage of the new ubiquity of these mobile devices. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Mason's invention to also display advertisements on a predetermined wireless device or on a wireless device specified by said request during time period for providing mobile access to the advertisements when people are on the go.

25. In reference to claims 60 and 84, Mason does not teach the method wherein the accounting for the displaying comprises the cost of said advertisement campaign and is based on a time that the request is received. Official Notice is taken that it is old and

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well known to set advertisement placement contract conditions at the time of the request for service, because of the value associated with certain advertisement slots based on how many viewers are likely to view that particular advertisement and how many competing advertisers are trying to gain that particular advertising slot. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Mason's invention to alter the cost of the advertising campaign based on the time the request was received in order for the provider to achieve the maximum payout for a specific advertising slot.

26. In reference to claims 62, 63, 86, and 87, Mason does not teach the method wherein the relevancy of the advertisement is measured at least in part by a financial metric and wherein the financial metric is the effective cost per Mil (eCPM) for the advertisement. Official Notice is taken that is old and well known in the area of Internet advertising to use measurements including the cost per a thousand impressions and cost per click to rank potential advertisements in a way to maximize earnings of the website owner. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Mason's invention to include the use of the cost per thousand impressions in order to prioritize advertisement display based on the payout that can be achieved from the display.

27. In reference to claims 65 and 89, Mason teaches displaying on the electronic display said advertisement on a predetermined website that has a higher click through rate than another advertisement (col. 6 lines 27-65). Mason does not however specifically state the use of the cost per Mil (eCPM) measurement for determining which

advertisement should be displayed. Official Notice is taken that is old and well known in the area of Internet advertising to use measurements including the cost per a thousand impressions and cost per click to rank potential advertisements in a way to maximize earnings of the website owner. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention for Mason's invention to include the use of the cost per thousand impressions in order to prioritize advertisement display based on the payout that can be achieved from the display.

Response to Arguments

28. After careful review of Applicant's amendments filed on 07/17/2007, the Applicant's arguments with respect to claims 49-94 have been have been fully considered but are moot in view of the new ground(s) of rejection. Amendments to claims 49, 52, 53, 57, 65, 67, 74, 75, 81, 89, and 92 have been entered and considered.

29. The previously made rejections under 35 USC § 112 have been removed in view of the Applicant amendments.

30. Applicants additional remarks are addressed to new limitations in the claims and have been addressed in the rejection necessitated by the amendments.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

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MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Namrata (Pinky) Boveja whose telephone number is 571-272-8105. The Examiner can normally be reached on Mon-Fri, 8:30 am to 5:00 pm. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The **Central Fax Number** for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 1866-217-9197 (toll-free).

NB

September 15th, 2007